

LOCAL LAW INTRODUCTORY No. 1 OF 2014
VILLAGE OF TUXEDO PARK, NEW YORK

**A LOCAL LAW AMENDING THE VILLAGE CODE CONCERNING THE
REGULATION OF NOISE WITHIN THE VILLAGE**

BE IT ENACTED by the Village Board of the Village of Tuxedo Park, Orange County, New York as follows:

SECTION 1: PURPOSE AND FINDING.

The Board of Trustees of the Village of Tuxedo Park has determined that it is necessary and desirable to modify several provisions of the Village Code that regulate noise in the Village in order to prevent noises that are detrimental to the life, health, welfare and good order of the citizens of the Village, and to do so in a manner that comports with Constitutional requirements. Tuxedo Park, a product of its development as a sparsely populated village nestled in an undulating rugged landscape with meandering roadways, and bestowed with a listing on the National Register of Historic Places, reflects a serene environment, in which tranquility is a vital element of the fabric of the Village. The Board of Trustees hereby finds that the need for the regulation of noise is thereby of particular importance to the well-being and enjoyment of Village property owners, residents and guests, to ensure the quietude they expect in this unique Village. The following modifications regulate the permissible uses of public and private premises and restrict certain activities thereon in order to limit the level of noise emanating from such properties in a reasonable manner, while providing property owners and non-property owners reasonable opportunity to perform necessary or desirable work on such properties, or otherwise enjoy the use of such property.

SECTION 2. CHAPTER 70: PEACE AND GOOD ORDER.

Village Code Section 70-2 is hereby amended to add the following definition:

REAL PROPERTY BOUNDARY

The real property ownership division reflected on real property tax maps and other real property instruments filed in the Orange County Clerk's Office, including its vertical extension, which separates the real property owned or controlled by one person or entity from real property owned or controlled by another person or entity.

Village Code Section 70-6(A) is hereby repealed and the following language substituted in its place:

Work creating noise beyond the subject property line that is clearly audible by a reasonable person of normal and average auditory sensitivities, including noise resulting from the delivery, removal or use of heavy equipment, construction, demolition, excavation, tree cutting, lawn

mowing, leaf blowing or other landscaping work, exterior repairs or any other such work, shall be permitted on weekdays between 8:00 a.m. and 4:30 p.m. No such activity shall be permitted on Saturday or Sunday or on any New York State recognized holiday, except that leaf blowing activities may be done on any Saturday in November prior to the Thanksgiving holiday of each year.

Village Code Section 70-6(B) is hereby repealed and the following language substituted in its place:

B. Excepted from Subsection A above are snow or ice removal by snowblowers and other machinery for the purpose of removing snow or ice, and abatement of imminent hazards. Also excepted from Subsection A above is routine property maintenance, such as minor home repair or improvement projects, and landscaping activities (but specifically excluding leaf blowers and other similar equipment), performed by the property owner, resident or occupier on any day (other than New York State recognized holidays), between 9:00 a.m. and 4:30 p.m. Leaf blowers and other similar equipment may be used by the property owner, resident or occupier on Saturdays between 9:00 a.m. and 4:30 p.m..

Village Code Section 70-6 is hereby amended to add the following new subsection "D":

D. Music or other entertainment creating unreasonable or excessively loud noise clearly audible beyond the subject property line that disturbs or annoys a reasonable person of normal and average auditory sensitivities shall not be permitted prior to 9:00 a.m. or after 10:00 p.m. on weekdays and Sundays, or prior to 9:00 a.m. on Saturdays. Such music or other entertainment is permitted until midnight on Saturdays.

Village Code Section 70-6 is hereby amended to add the following new subsection "E":

E. Any person or entity, including, but not limited to, any property owner, resident, guest, invitee, contractor or subcontractor, violating this section shall be fined a civil fine of not less than \$250 nor more than \$1,000 for the first violation; nor less than \$500 nor more than \$2,000 for a subsequent offense thereof. The continuation of an offense shall constitute, for each day the offense is continued, a separate and distinct violation.

SECTION 3. CHAPTER 32: ANIMALS.

Village Code Section 32-2(A) is hereby repealed and the following language substituted in its place:

A. Engage in biting of a person or other animal, or engage in loud howling or barking that creates unreasonable or excessively loud noise clearly audible that disturbs or annoys a reasonable person of normal and average auditory sensitivities, other than the owner or person harboring such dog.

SECTION 4: SUPERSEDING PROVISION.

To the extent that any State or local laws fail to provide specific authority for this Local Law, or otherwise appear to be in conflict with this Local Law, then such laws are hereby superseded by this Local Law pursuant to New York Municipal Home Rule Law and the common law.

SECTION 5: SEVERABILITY.

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

SECTION 6: EFFECTIVE DATE.

This law shall take effect upon the filing of this Local Law with the New York Secretary of State in the manner provided for in the Municipal Home Rule Law.

PROPOSED LOCAL LAW RE NOISE RESTRICTS

VILLAGE CODE SECTION 70-2 TRACKED MODIFICATIONS TO EXISTING LAW
(deleted text noted by strikethrough; added text noted by underscore):

REAL PROPERTY BOUNDARY

The real property ownership division reflected on real property tax maps and other real property instruments filed in the Orange County Clerk's Office, including its vertical extension, which separates the real property owned or controlled by one person or entity from real property owned or controlled by another person or entity.

VILLAGE CODE SECTION 70-6 TRACKED MODIFICATIONS TO EXISTING LAW
(deleted text noted by strikethrough; added text noted by underscore):

A. Work creating noise; beyond the subject property line that is clearly audible by a reasonable person of normal and average auditory sensitivities, including noise resulting from the delivery, removal or use of heavy equipment, construction, demolition, excavation, tree cutting, lawn mowing, leaf blowing or other landscaping work, exterior repairs or any other such work, ~~that creates noise beyond the subject property line~~ shall be permitted only on weekdays between 8:00 a.m. and 4:30 p.m. No such activity shall be permitted on Saturday or Sunday or on any New York State recognized holiday, except that leaf blowing activities may be done on any Saturday in November prior to the Thanksgiving holiday of each year.

B. Excepted from Subsection A above are snow or ice removal by snowblowers and other machinery designed for the purpose of removing snow or ice, (but specifically excluding leaf blowers and other similar equipment), and abatement of imminent hazards. Also excepted from Subsection A above is normal routine property maintenance, such as minor home repair or improvement projects, and landscaping activities (but specifically excluding leaf blowers and other similar equipment), performed by the property owner, resident or occupier on any day; (other than New York State recognized holidays), between 9:00 a.m. and 4:30 p.m. Normal property maintenance may be performed by nonproperty owners on Saturdays between 9:00 a.m. and 4:30 p.m., provided that such maintenance does not create noise beyond the subject property line. Leaf blowers and other similar equipment may be used by the property owner, resident or occupier on Saturdays between 9:00 a.m. and 4:30 p.m. Non-property owners performing leaf removal and landscaping activities may create noise that extends beyond the subject property line between 9:00 a.m. and 4:30 p.m. on any Saturday in November prior to the Thanksgiving holiday of each year.

C. Village operations, authorized garbage collection vehicles operating under a permit issued by the Board of Trustees and bona fide medical, fire and utility emergencies are exempt from these restrictions. Other exceptions may be granted by the Mayor, Police Chief or Board of Trustees upon prior written request.

D. Music or other entertainment creating unreasonable or excessively loud noise clearly audible beyond the subject property line that disturbs or annoys a reasonable person of normal and average auditory sensitivities shall not be permitted prior to 9:00 a.m. or after 10:00 p.m. on weekdays and Sundays, or prior to 9:00 a.m. on Saturdays. Such music or other entertainment is permitted until midnight on Saturdays.

E. Any person or entity, including, but not limited to, any property owner, resident, guest, invitee, contractor or subcontractor, violating this section shall be fined a civil fine of not less than \$250 nor more than \$1,000 for the first violation; nor less than \$500 nor more than \$2,000 for a subsequent offense thereof. The continuation of an offense shall constitute, for each day the offense is continued, a separate and distinct violation.

VILLAGE CODE SECTION 32-2 TRACKED MODIFICATIONS TO EXISTING LAW
(deleted text noted by strikethrough; added text noted by underscore):

It shall be unlawful for any owner or any person harboring any dog in the Village of Tuxedo Park, New York, to permit or allow such dog to:

A. ~~Engage in biting, loud howling or barking or to conduct itself in such manner so as to habitually annoy any person of~~ a person or other animal, or engage in loud howling or barking that creates unreasonable or excessively loud noise clearly audible that disturbs or annoys a reasonable person of normal and average auditory sensitivities, other than the owner or person harboring such dog.

B. Cause damage or destruction to public or private property or commit a nuisance upon the premises of a person other than the owner or person harboring such dog.

C. Chase or otherwise harass any person in such manner as to reasonably cause intimidation or put such person in reasonable apprehension of bodily harm or injury.

D. Habitually chase or bark at motor vehicles.

E. Remain in the Village of Tuxedo Park unless licensed and cared for in accordance with the provisions of this article and the New York State Agriculture and Markets Law.